

Exhibit D



April 13, 2022

San Rafael Public Library
1100 E Street
San Rafael, CA 94901

Offer for subscription to the collectionHQ Service

Baker & Taylor, LLC hereby offers to supply the Service (defined below) to you on a subscription basis, as provided herein, utilizing the software and services of its wholly owned indirect subsidiary, Bridgeall Libraries Limited ("Bridgeall" or "our" or "us"). Bridgeall is a Scotland company registered under the Companies Acts (company number SC297736) and is located at 1 Ainslie Road, Hillington Park Glasgow, G52 4RU. The Service is subject to the Standard Terms and Conditions attached to this Offer letter.

Service:	Provision over a web interface of our subscription-based hosted Software using data supplied to us by you. Details of the subscription service can be found in user guide which is available on request or via the Academy for existing customers.
Software:	The then current core version of our proprietary software application collectionHQ, which both provides the Service on our website and enables you to use the Service. The core Software does not include the optional Modules.
Set Up:	Implementation & Initial Training
Commencement Date:	The date you are given access to your data within the collectionHQ system

The costs associated with the provision of the above Service are as follows:

Subscription Period:	1-Year Option
Subscription Fee:	\$12,000/year
Implementation Fee:	\$3,000
Subscription Period:	3-Year Option
Subscription Fee:	\$10,800/year (10% discount)
Implementation Fee:	\$1,500 (50% discount)
ESP Professional:	Included at no charge in Year 1, with 3-year subscription to collectionHQ (Normally \$6,000/year)
Designated Libraries:	3
Permitted Users:	10 at any one time (unlimited user IDs)

Minimum Hardware and Software Requirements:	<ul style="list-style-type: none"> • A supported Internet browser (see www.collectionhq.com for a list of supported browsers) • A connection from your internal network to the Internet with a minimum nominal speed of 8Mbps • Outbound FTP Access
Website:	Our website located at www.collectionhq.com (or such other domain name as we may from time to time specify) from which the Service is to be provided.
Designated Contact(s):	Henry Bankhead, henry.bankhead@cityofsanrafael.org

The date collectionHQ receives your confirmation will constitute the 'date of order.' Invoice is due Net 30. Subscription does not start until your collectionHQ site is live (the "Commencement Date").

This Offer is subject to our Standard Terms and Conditions attached hereto, and is open for acceptance until June 30, 2022, failing which it will lapse. If you wish to accept this Offer, please confirm your acceptance by signing at the bottom of this document.

Sincerely,

Jane Herb
Enterprise Sales Manager, West
jane.herb@baker-taylor.com

Baker & Taylor, LLC, indirect owner and agent of
Bridgeall Libraries Limited

STANDARD TERMS AND CONDITIONS FOR THE SERVICE

BEFORE USING THE SERVICE, PLEASE READ THIS THESE TERMS AND CONDITIONS AND THE OFFER (COLLECTIVELY, THE "AGREEMENT") CAREFULLY. BY ACCESSING OR USING THE SERVICE, YOU ARE ACCEPTING THE TERMS OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, YOU MAY NOT USE THE SERVICE.

This Agreement is a legal agreement between you and Baker & Taylor, LLC , as indirect owner and agent of Bridgeall Libraries Limited, and governs your rights and obligations regarding the Service.

1. Definitions

Term	Meaning
the "Offer"	The offer letter, offering you the collectionHQ service.
the "Agreement"	The Offer together with these Terms and Conditions
references to "You" or "Your"	The person or organization which has accepted the Offer and thereby agreed to receive the Service
references to "We", "Our" or "Us"	Baker & Taylor, LLC, as indirect owner and agent of Bridgeall Libraries Limited
the "Software"	The then current and core version of our proprietary software application collectionHQ, which both provides the Service on our website and enables you to use the Service. The core Software does not include the optional Modules.
the "Service"	Provision over a web interface of our subscription based hosted Software using data supplied to us by you. Details of the subscription service can be found in user guide which is available on request or via the Academy for existing customers.
the "Commencement Date"	The date this Agreement and the Service is deemed to have commenced.
the "Subscription Period"	The initial term of this Agreement, as shown in the Offer.

the "Designated Libraries"	The maximum number of libraries authorized to use the Service, as shown in the Offer.
the "Permitted Users"	The maximum number of concurrent authorized users that may use the service, as shown in the Offer.
the "Renewal"	A twelve-month extension of the period for which the Service will be provided, commencing at the end of the Subscription Period, and on every subsequent anniversary thereafter.
the "Renewal Date"	The date the annual Renewal commences
the "Modules"	Optional packages of extra-functionality software, which enhance the Software further, and which are not covered by the Subscription Fee.
The "Designated Contacts"	The email addresses to which all notices under this agreement will be addressed, as shown in the Offer.

References to Clauses are to clauses of this Agreement. Terms defined in the Offer shall have the same meaning in these terms and conditions.

Registration/Duration

- 2.1 We shall provide the Service to you under the terms of the Agreement. This Agreement (and the Service provided) shall commence on the Commencement Date and, always subject to Clauses 11 and 12, shall be renewed automatically for a period of 12 months, commencing at the end of the Subscription Period, and on each anniversary thereafter.

3. Equipment and Internet Connection

- 3.1 We shall provide the Service to you using the Internet. You are responsible for providing an adequate connection to the Internet with a minimum connection speed not less than that specified in the Offer.
- 3.2 You are responsible for obtaining and maintaining all equipment, hardware, third party software, peripherals and any and all other communications facilities and equipment which may be required from time to time to access and use the Service (and of at least the minimum hardware/software specification as set out in the Offer) and for paying all charges incurred in relation to the use of these.

4. Data Supply and Cataloging Records

- 4.1 You agree that in order for us to provide the Service you shall utilise a suitable and reliable data extraction mechanism, to extract, collect and convey data to be used for the Service to our computer systems. Once such data is received by our systems our Software can provide the Service to you and Permitted Users.
- 4.2 Consequently you hereby grant to us a non-exclusive licence to use the data supplied by your computer systems to ours for the term of this Agreement, for purposes including but not limited to the following:-
 - (a) providing the Service;
 - (b) providing any future enhancements to the Software or Modules;
 - (c) our own internal records and aggregated without attribution in other systems; and
 - (d) allowing an Internet Services Provider appointed by us to access such data to the extent necessary to allow such Internet Services Provider to host the Software.
- 4.3 To provide an effective Service to you, it is important to ensure the reliability and integrity of data supplied. Accordingly, you warrant that the data supplied:
 - (a) does not infringe the rights of any third parties, including without limitation copyright owned by third parties;
 - (b) complies with all applicable laws and regulations; and
 - (c) will be accurate and will be updated on at least a monthly basis.
- 4.4 For the avoidance of doubt, unless you comply with the terms of this clause 4 we shall have no obligation to provide the Service.
- 4.5 In addition, as a subscriber to the Service, you have the opportunity to access Baker & Taylor's BT CAT community pool of cataloging records at no charge if you authorize the use of your cataloging records by Baker & Taylor. By signing this Agreement, you are authorizing Baker & Taylor to utilize your cataloging records and are confirming that you have the right to make this authorization. This authorization means that your cataloging records are licensed to Baker & Taylor on a perpetual, fully paid-up, non-exclusive, non-transferable, and irrevocable, basis for use in BT CAT and in any and all other products offered at any time by Baker & Taylor to its customers. Once received, Baker & Taylor improves contributed cataloging records in the community pool by comparing them to existing cataloging records in the community pool, merging them where appropriate, exchanging them for existing records where higher encoding is found, and removing any customer identifiers that may be found on the records. Baker & Taylor reserves all rights with respect to the use all such contributed cataloging records in BT CAT and in any and all other products offered at any time by Baker & Taylor to its customers.
5. Availability of Service
 - 5.1 We will use commercially reasonable efforts to achieve the Service Targets set out in Appendix 1. However, whilst we will do what we reasonably can to ensure the availability of the Service at all times, we cannot and do not offer a continuous or uninterrupted service and no warranty is given in this respect. You acknowledge that certain aspects of the Service are dependent upon third parties and upon your computers supplying us with data. Without prejudice to this generality, we may at any time at our discretion:

- (a) temporarily suspend or restrict access to the Service for the purposes of repair, modification, maintenance or improvement or the implementation of new facilities or performance of back-up or data archival; or
- (b) give instructions to you regarding the use of the Service which in our reasonable opinion are necessary in the interests of security or to maintain or improve the quality of the Service to you. You will use your best endeavours to comply with such instructions and, while they are in force, such instructions will be deemed to form part of this Agreement.

However, where reasonably possible, we shall give notice of any suspension, undertake system maintenance activity out of your normal working hours (assuming these are 9am until 5pm Monday - Friday) and will restore the Service as soon as reasonably practicable after any such suspension.

5.2 You shall:

- (a) grant us (or our employees and/or agents) access to your premises, when and if needed, during normal business hours and we and our employees and/or agents shall adhere to your policies and procedures in relation to health and safety and security at all times;
- (b) use reasonable endeavours to provide decisions, information or assistance to us on our request in sufficient time and detail for us to provide the Service; and
- (c) prepare the equipment, hardware, third party software, infrastructure and environment in accordance with clause 3.2 and generally as required by us and to have access as provided for in (a) and (b) above

in order for us to provide the Service in accordance with the Agreement. For the avoidance of doubt if you do not comply with clause 5, we shall have no obligation to provide the Service.

6. Changes to Service

- 6.1 We reserve the right to enhance or otherwise change the Service or the Software from time to time in order to improve the Service or Software we offer You.

7. Use of Service

- 7.1 Subject to your payment of the Subscription Fee as set out in the Offer, we grant to you a non-exclusive, non-transferable right to access the Service for the duration of this Agreement for the sole purpose of using the Service in relation to stock performance management for the Designated Libraries.
- 7.2 You are permitted to print and download reports from the website for your own use provided that no documents, information or related graphics on the website are modified in any way and no graphics on the website are used separately from accompanying text and provided you otherwise comply with the terms of this Agreement.
- 7.3 Unless otherwise stated by us on the website, the copyright and other intellectual property rights in all material on the website and the Software are owned by us or our

licensors. Any use of reports from the website other than in accordance with Clause 7.2 above is prohibited.

- 7.4 Subject to Clause 7.2, no part of the website may be reproduced or stored in any other website or included in any public or private electronic retrieval system or service without our prior written permission. Such permission shall not be unreasonably withheld.
- 7.5 Upon acceptance of the Offer and subject to payment of the Subscription Fee, we shall provide you with the usernames and passwords authorising use of the website for the Permitted Users specified in the Offer. You may issue these to Permitted Users who are your employees, or such other types of users as are agreed by us on the basis that each username and password pair is allocated to a single user only and only such users who have been allocated with a username and password by you are entitled to use the Service. You agree that you shall not disclose information in relation to the Software or provide any access whatsoever to any third party which is not a Permitted User.
- 7.6 Additional pairs of usernames and passwords may be issued by us at our option upon your request and we shall have the right to make an additional charge for these additional pairs or vary monthly fees as a result of these additional users accordingly at our sole discretion. Any use made of the Software and Service by anyone other than Permitted Users shall be deemed unauthorized use.
- 7.7 You may not, and you shall procure undertakings from Permitted Users that they shall not:
 - (a) copy the Software for any purpose whatsoever other than normal automatic copying by your computer of the Software for the sole purposes of enabling you and your Permitted Users to use the Service on the website;
 - (b) use the Service or Software or any part of them on equipment of a type, category or for additional users or libraries other than as permitted by this Agreement;
 - (c) modify, alter, loan, distribute, rent, assign, sub-license, transfer or otherwise provide (whether electronically or otherwise) access to the website, or the Software utilised by the website or any copy or part of it to anyone else or make the website or the Software utilized by it available for use by others in any time sharing, service bureau or similar arrangement or otherwise;
 - (d) except as permitted by applicable law, reverse engineer, disassemble, reverse translate or in any way decode the website or the Software or any copy or part of them in order to derive any source code or other information. You agree that the website and Software contains valuable trade secrets and confidential information owned by us including but not limited to the functionality, appearance and content of the website and Software screens, the method and pattern of user interaction with the website and Software and the content of the website. The Software source code and such valuable trade secrets and confidential information are not licensed to you under this Agreement and must not be disclosed to any third party.
- 7.8 All right, title and interest including but not limited to copyrights and other intellectual property rights of any nature in the website and the Software and resulting out of the

delivery of the Service are owned exclusively by us and you acquire no title or interest in the same other than the right to use the website and the Software and receive the Service in accordance with this Agreement.

8. Support and Training

- 8.1 We shall provide you with access to a support helpdesk in respect of the Service between the hours of 9.00 am and 5.00 pm, Monday to Friday (excluding Scottish public holidays) in accordance with our then current support procedures as amended or updated by us from time to time. The support helpdesk facility should be accessed by email to ensure all incidents are logged by our Support Ticketing System.

On-site support shall not be provided by us as part of the Service, but may be provided at our sole option where we deem it necessary and/or where we are unable to resolve queries remotely. Upon mutual agreement, we shall be entitled to provide you with on-site support whereby we will charge our standard daily rates from time to time (prorated if appropriate), and you shall pay all reasonable travel and other costs and expenses incurred by us in relation thereto.

- 8.2 We shall provide such initial training regarding use of the Software and Service as we deem appropriate including without limitation by way of the provision of documentation relative to the Software and the Service. If you wish additional training throughout the Subscription Period, this shall be the subject of separate agreement between you and us.

9. Escrow Agreement

In accepting the Offer, you are agreeing to subscribe to a service (the Service) based upon payment of an annual subscription fee (the Subscription Fee). As such, no Escrow arrangements are applicable in relation to this Agreement.

10. Consultancy Services

- 10.1 We do not need to provide you with additional chargeable Consultancy Services for you to be able to fully use the Service. However, if you would like us to provide additional services for you then these can be discussed on a case-by-case basis and quotations will be prepared as appropriate.

- 10.2 Re-implementation for new integrated library system.

If you change your integrated library system during your subscription to collectionHQ, we will need to re-implement collectionHQ for you. The technical effort relating to this is almost the same effort required for the initial implementation. The charge for us to set your collectionHQ instance up with your new integrated library system will be 50% of your Set Up Fee list price.

11. Payment

- 11.1 In consideration of the provision of the Service by us, you shall pay the Subscription Fee specified in the Offer. Payment is due annually in advance for the Service to be provided in that year and we shall invoice you accordingly.

- 11.2 Payment shall be within 30 days of the date of invoice.

- 11.3 The Software may be upgraded by us from time to time, offering new functionality or features, and you must accept such changes to the Software as and when they are released by us. There shall be no increase to the Subscription Fee for such new functionality or features. However, software Modules may be offered to you from time to time which you may choose to subscribe to at extra cost to the Subscription Fee, effective from the date you are granted access to such new Modules. However, you will have the option not to subscribe to such new Modules.
- 11.4 All sums in the Offer are exclusive of sales taxes and duties which will be payable if applicable in addition. We reserve the right to increase subsequent subscription fees.
- 11.5 Without prejudice to any other right or remedy which we may have, we shall be entitled to charge interest (both before and after judgement) on a daily basis on all sums overdue at the greater of (i) the highest rate permitted by applicable law, or (ii) a rate of 1% per month from the date such sums became due until paid in full. You will also be liable for all reasonable costs and expenses incurred by us in collecting overdue sums.
- 11.6 In addition to the above, and again without prejudice to our other rights hereunder and in law, should you fail to make any payment when due under this Agreement, we shall have the right by notice in writing to suspend the Service and any and all other services being performed by us without liability until the default is made good.
- 12. Termination
- 12.1 We may terminate the Service forthwith at any time by notice with immediate effect to you if you:
 - (a) use, or permit use of, the website, Service or the Software otherwise than in accordance with this Agreement; or
 - (b) fail to pay any sum rightly due hereunder within 30 days of the due date
- 12.2 You may cause the Service to be terminated
 - (a) at the end of the Subscription Period, or on the Renewal Date thereafter, by providing Bridgeall Libraries Ltd. with at least 3 months advance notice in writing; or
 - (b) if, within 3 months prior to the Renewal Date, we inform you of an increase to your Subscription Fee for the Renewal which you find unacceptable, you have the option not to renew your Subscription at the end of the current Subscription Period. However, should we, at any point during this period, agree to revert to the current Subscription Fee then the Renewal will apply.
- 12.3 No refunds will be paid for termination unless you terminate under Clause 12.2, and termination is during a payment period for which you have already paid, in which case we will refund a pro rata amount to reflect the unexpired portion of the period for which you have pre-paid.
- 12.4 Termination of this Agreement shall not affect the accrued rights and liabilities of the parties arising in any way out of this Agreement. Clauses which due to their nature are due to be performed or observed following termination including but not limited

to Clauses 4.5, 7.8, 11, 12, 13, 14, 16 and 17 shall survive termination of this Agreement and shall remain in force and effect.

- 12.5 On termination or expiry of this Agreement, you shall destroy any downloaded or printed extracts from the website and completely purge any copies of the Software from all of your systems subject always to you retaining your collection management audit trail, all to your satisfaction for which you seek agreement from us.
- 12.6 In regard to multiyear agreements, if you terminate the subscription before the end of the multiyear period set forth in the Offer, then the discount you received for previous periods would be automatically cancelled and the amount discounted would be payable by you to us.

13. Compliance with Laws

- You will comply with all applicable laws and regulations in respect of your use of the Service including but not limited to data protection and privacy laws and regulations. We reserve the right to remove from our systems/records any material, content or data which we reasonably believe may lead to a third party claim against us. To the extent permitted by law, you will fully and effectively indemnify us in relation to any breach of the terms by you of this Clause 13.

14. Data Protection and Privacy

By subscribing for the Service, you consent to our retention, use and disclosure of your details solely for the purposes of delivering the Service to you. You are responsible for advising your employees and other users and your customers about how we use information provided to us, and for procuring any necessary consents.

15. This Section is intentionally blank.

16. Availability

Whilst we will use our commercial reasonable endeavours to ensure that the Service will be available to you (subject to Clause 5), and that data will be held securely and appropriately backed up, no warranties are given in this regard and we specifically do not represent or warrant that:

- (a) the Service will be uninterrupted or error free and you acknowledge and agree that the existence of such errors and/or the occurrence of interruptions shall not constitute a breach of this Agreement; or
- (b) defects out with our control in the Service will be corrected.

We are not responsible for being blocked by ISPs, firewalls, routers and/or software, devices or equipment of a similar nature over which we have no control where this impacts on the provision of the Service.

17. Passwords and Security

You shall be responsible for ensuring that any and all usernames and passwords provided to you and/or your employees, agents or other authorised representatives for the purposes of accessing the Service are kept secure and disclosed only to your authorised representatives who have a need to know such usernames and passwords. Without prejudice to the foregoing, you shall ensure that the Service is not used by or

on behalf of any person, other than you or any of your employees, agents or other authorised representatives or Permitted Users, who are not authorised to do so. You are entirely responsible for any and all activities that occur in accessing and using the Service using passwords issued to you or your Permitted Users. You shall immediately notify us of any unauthorised use of the Service using your passwords or any other breach of security but to avoid any doubt, we are not liable to you or anyone else for any loss or damage arising from your failure to comply with the above.

18. Confidentiality

- 18.1 In the course of the performance of its obligations and exercise of its rights under this Agreement, the Parties both agree that each may acquire information and/or proprietary materials from the other, which information is not generally known in the relevant trade or industry of either party or third parties with which either party conducts or may conduct business. As used in this Agreement, "Confidential Information" means all non-public information disclosed by one party or its agents (the "Disclosing Party") to the other party (the "Receiving Party") that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information includes, but is not limited to, (i) non-public information relating to the Disclosing Party's technology, customers, business plans, promotional and marketing materials, statistics, technical information, finances and other business affairs, (ii) third-party information that the Disclosing Party is obligated to keep confidential, and (iii) the contents and provisions contained in this Agreement.

Any information provided by us that is Confidential will be clearly labelled by you as "Confidential" at the time it is provided. For the avoidance of doubt, we shall not use any of your data in presentation materials (unless the data has been fully anonymised) without your prior written consent.

- 18.2 The Receiving Party shall protect the Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as The Receiving Party uses to protect its own confidential information of like nature. The Receiving Party shall restrict disclosure of Confidential Information to its employees, agents and assigns with a need to know and shall advise them of the requirements of this Agreement.
- 18.3 Confidential Information does not include any information that: (i) is or becomes publicly available without breach of this Agreement, (ii) can be shown by documentation to have been known to the Receiving Party at the time of its receipt from the Disclosing Party, (iii) is received from a third party who did not acquire or disclose such information by a wrongful or tortious act, or (iv) can be shown by documentation to have been independently developed by the Receiving Party without reference to any Confidential Information.
- 18.4 The Receiving Party may use Confidential Information only in pursuance of its business relationship with the Disclosing Party. Except as expressly provided in this Agreement, the Receiving Party will not disclose Confidential Information to anyone without the Disclosing Party's prior written consent. The Receiving Party will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of Confidential Information, including, at a minimum, those measures it takes to protect its own confidential information of a similar nature.

- 18.5 The Receiving Party will restrict the possession, knowledge and use of Confidential Information to its employees, agents and assigns (collectively, "Personnel") who (i) have a need to know Confidential Information in connection with the parties' business relationship, and (ii) when requested by the Disclosing Party on a case by case basis, have executed written agreements obligating them to protect the Confidential Information.
- 18.6 The Receiving Party may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it, provided that the Receiving Party: (i) gives the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy, (ii) discloses only such information as is required by the governmental entity, and (iii) uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.
- 18.7 All Confidential Information will remain the exclusive property of the Disclosing Party. The Disclosing Party's disclosure of Confidential Information will not constitute an express or implied grant to the Receiving Party of any rights to or under the Disclosing Party's patents, copyrights, trade secrets, or trademarks or other intellectual property rights.
- 18.8 The Receiving Party will notify the Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by Receiving Party. The Receiving Party will cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of such Confidential Information and prevent its further unauthorized use.
- 18.9 The Receiving Party will return or destroy all tangible materials embodying Confidential Information (in any form and including, without limitation, all summaries, copies and excerpts of Confidential Information) promptly following the Disclosing Party's written request. At the Disclosing Party's option, the Receiving Party will provide written certification of its compliance with this Section.

19. Liability

- 19.1 Neither party excludes or limits liability to the other for death or personal injury caused by its negligence.
- 19.2 In no event shall either party be liable to the other for: (a) loss of use, profits, business, revenue or goodwill; (b) loss of data; (c) loss of savings (whether anticipated or otherwise); and/or (d) indirect, special, punitive, incidental, exemplary, or consequential loss or damages of any kind arising out of or relating to the Services provided under this Agreement even if such party has been advised of the possibility of such damages.
- 19.3 We warrant that:
 - (a) we have the right to license all rights in and to the Software to you, and that the Software supplied by us under this Agreement does not infringe the U.S. intellectual property rights of any third party; and
 - (b) at the Commencement Date, and for the duration of the Agreement, the Service will perform in substantial accordance with the User Guide as set out in the User Guide document. However, you accept that improvements and enhancements to the Service during the Subscription Period may significantly

change the User Guide. The sole remedy for breach of the warranty under this clause 19.3(b) shall be correction of Defects by us within a reasonable time from notification by you of the Defect that constitutes such breach. For the purposes of this clause, a "Defect" is an error in the Software or website that causes the Service to fail to operate substantially in accordance with User Guide document.

- 19.4 The sole remedy for a breach of the warranty given in clause 19.3(a) is that we shall defend, hold harmless and indemnify you against all loss, damage, claims, liabilities, fees, costs and expenses arising out of any action brought against you based on a claim that the Service infringes any U.S. intellectual property right of any third party, provided that:

(a) we shall be notified promptly in writing of any such claim;

(b) you shall make no admission or settlement of such claim without our prior written consent;

(c) we shall have sole control of the defense and any negotiations for compromise;

(d) you shall provide, at our expense, such assistance as we reasonably require.

- 19.5 THE WARRANTIES IN CLAUSE 19.3 ARE IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, AND WE MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, REGARDING THE SERVICES, SOFTWARE, TECHNOLOGY, INTELLECTUAL PROPERTY, MATERIALS, INFORMATION OR OTHER ITEMS PROVIDED OR MADE AVAILABLE UNDER THIS AGREEMENT, AND HEREBY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

- 19.6 OUR TOTAL LIABILITY UNDER THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, SHALL NOT EXCEED A SUM EQUAL TO ONE YEAR'S SUBSCRIPTION FEE.

- 19.7 We shall not be liable if you are unable to access the Service or incur problems or loss when using the Service because of any corruption, abuse or incorrect use of the website or usernames and passwords or contravention of the terms of this Agreement (including any use of the Service with equipment or other software which is incompatible) and/ or because of any variation or modification to the website or Software which is unauthorized by us, and/or where the website or Software has been used in contravention of the terms of this Agreement and/or in contravention of the website terms and conditions and/or where the failure is due to factors external to the website and Software including but not limited to damage or environmental conditions and/or failures in other equipment or software and/or where the failure is due to incorrect, inaccurate, out of date or corrupted data supplied by you.

- 19.8 Any delays caused by you shall be added to any estimated timescales for provision of the Service.

- 19.9 We shall effect and maintain with a reputable insurance company professional indemnity insurance in an amount not less than \$1 million.

19.10 We shall hold employer's liability insurance in respect of our staff in accordance with any legal requirement for the time being in force.

19.11 We shall produce to you, on reasonable prior request, copies of the insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

20. Dispute Resolution

20.1 Each party shall use commercially reasonable efforts to resolve any disputes arising under this Agreement in good faith as soon as practicable. If any dispute cannot be resolved to the reasonable satisfaction of the parties within ten (10) days after the dispute arose, either party may elect to escalate the dispute to a representative executive of each party.

20.2 If such executives cannot resolve such dispute to their mutual satisfaction within thirty (30) additional days, or such other period of time as mutually agreed upon by such executives, then the parties agree to try in good faith to settle the dispute by not less than one full day of mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures.

20.3 Any controversy, dispute or claim for money damages arising out of or relating in any way to this Agreement that is not resolved by mediation shall be settled exclusively by arbitration in a mutually agreeable city. Such arbitration shall be subject to the then prevailing Rules for Non-Administered Arbitration of the AAA. One (1) independent and impartial arbitrator shall be appointed by mutual agreement. The fees and expenses of the AAA and the arbitrator shall be shared equally by the parties and advanced by them from time to time as required. The arbitrator shall permit and facilitate such discovery as he shall determine appropriate in the circumstances, taking into account the needs of the parties and the desirability of making discovery expeditious and cost effective. You and we shall keep confidential, and shall not use for any purposes other than in connection with the arbitration, any proprietary information, trade secrets or other non-public information disclosed in discovery. The arbitrator shall render an award within 90 days of the conclusion of the arbitration hearing. The award of the arbitrator shall be accompanied by findings of fact and a written statement of reasons for the decision. The arbitrator shall make his award in strict conformity with this Agreement and shall have no power to depart from or change any of the provisions hereof. The parties agree to be bound by any award rendered in such arbitration proceeding. Any judgment thereon may be enforced in any court having jurisdiction.

20.4 Notwithstanding the foregoing, in the event of a violation of (a) a Party's proprietary or confidentiality rights under clause 7, or (b) a party's proprietary or confidentiality rights under clause 18, nothing in this Section shall prohibit either party from immediately applying to a court of competent jurisdiction for a temporary restraining order, preliminary or permanent injunction, or other similar equitable relief. EXCEPT WHERE PROHIBITED BY LAW, THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO TRIAL BY JURY FOR ANY ACTION OR PROCEEDING BROUGHT IN RELATION TO THIS AGREEMENT.

21. General

- 21.1 This Agreement constitutes the entire agreement between you and us relating to the use of the Service, the website and the Software and supersedes all other agreements or understandings between us and you.
- 21.2 If any provision in this Agreement is deemed to be illegal or unenforceable the rest of the provisions will remain in full force and effect.
- 21.3 Waiver of any breach or failure to enforce any term of this Agreement will not be deemed a waiver of any breach or right to enforce which may thereafter occur. No waiver may be valid against any party hereto unless made in writing and signed by the party against whom enforcement of such waiver is sought and then only to the extent expressly specified therein.
- 21.4 Neither party will be liable for any failure or delay in performing its obligations, in terms of this agreement, due to circumstances beyond its reasonable control
- 21.5 You may not assign this Agreement, in whole or in part, to any third party without our prior written consent.
- 21.6 We are your independent contractor and are not your employee or agent. Nothing in this Agreement shall render or be construed to make us (including any of our agents, employees or subcontractors) your partners, joint venturers, employees or agents.
- 21.7 Each party acknowledges that it is entering into this Agreement solely on the basis of the agreements and representations contained in this Agreement, and that it has not relied upon any representations, warranties, promises, or inducements of any kind, whether oral or written, and from any source, other than those that are expressly contained within this Agreement. Each party acknowledges that it is a sophisticated business entity and that in entering into this Agreement it has had the opportunity to consult with counsel of its choosing.

21.8 Notices to be given by us under this Agreement shall be in writing and may be given by email or otherwise at our discretion and sent to the Designated Contacts within your organization as stated on the offer. Notices by you must be given in writing and sent by either (a) post addressed to us at our address at 1 Ainslie Road, Hillington Park Glasgow, G52 4RU as stated on the Offer or (b) by email to contact@collectionhq.com or to such other address as we may notify to you from time to time;

21.9 This Agreement shall be governed by, subject to and interpreted in accordance with the laws of the State where you are located

Acceptance of the Offer and Terms and Conditions of Service on behalf of San Rafael Public Library

☐ One-Year Agreement

☒ Three-Year Agreement

Jim Schutz, City Manager

Name/Title

Signature

Date

6/9/22

Appendix 1**Service Targets**

Availability	The collectionHQ service will be available 90% of the time 09.00 to 17.00 (your local time) Monday to Friday
Service Incidents	The collectionHQ Support Team will seek to provide an initial response within 24 hours and a follow up within a maximum 48 hours to service incidents and thereafter regularly updated until a resolution is reached. All incidents must be raised initially via our Helpdesk by email to support@collectionHQ.com
Non-Critical Enquiries	The collectionHQ Support Team will respond to non-critical enquiries within 3 days, deliver an answer within 10 days, and update status every 5 days. A non-critical inquiry is defined as a request for information that has no impact on the service quality if not answered or acted upon promptly.

**CONTRACT ROUTING FORM****INSTRUCTIONS:** Use this cover sheet to circulate all contracts for review and approval in the order shown below.**TO BE COMPLETED BY INITIATING DEPARTMENT PROJECT MANAGER:****Contracting Department:** Library & Recreation, Library Division**Project Manager:** Henry Bankhead**Extension:** 3436**Contractor Name:** Baker & Taylor, LLC**Contractor's Contact:** Jane Herb**Contact's Email:** jane.herb@baker-taylor.com☐ **FPPC:** Check if Contractor/Consultant must file Form 700

Step	RESPONSIBLE DEPARTMENT	DESCRIPTION	COMPLETED DATE	REVIEWER Check/Initial
1	Project Manager	a. Email PINS Introductory Notice to Contractor b. Email contract (in Word) and attachments to City Attorney c/o Laraine.Gittens@cityofsanrafael.org	Click here to enter a date. Click here to enter a date.	<input type="checkbox"/> <input type="checkbox"/>
2	City Attorney	a. Review, revise, and comment on draft agreement and return to Project Manager b. Confirm insurance requirements, create Job on PINS, send PINS insurance notice to contractor	4/25/2022 4/25/2022	<input checked="" type="checkbox"/> LG <input checked="" type="checkbox"/> LG (N/A)
3	Department Director	Approval of final agreement form to send to contractor	6/8/2022	<input checked="" type="checkbox"/> CQ
4	Project Manager	Forward three (3) originals of final agreement to contractor for their signature	n/a	<input checked="" type="checkbox"/>
5	Project Manager	When necessary, <u>contractor-signed</u> agreement agendized for City Council approval * *City Council approval required for Professional Services Agreements and purchases of goods and services that exceed \$75,000; and for Public Works Contracts that exceed \$175,000 Date of City Council approval	<input checked="" type="checkbox"/> N/A Or Click here to enter a date.	<input type="checkbox"/>
	PRINT	CONTINUE ROUTING PROCESS WITH HARD COPY		
6	Project Manager	Forward signed original agreements to City Attorney with printed copy of this routing form	6/8/22	JB
7	City Attorney	Review and approve hard copy of signed agreement	6/8/22	GC
8	City Attorney	Review and approve insurance in PINS , and bonds (for Public Works Contracts)	N/A	
9	City Manager / Mayor	Agreement executed by City Council authorized official	6/9/22	
10	City Clerk	Attest signatures, retains original agreement and forwards copies to Project Manager	06/09/22	N/A